

For Participating Institutions

[Institution Name] is participating in the FDIC's Transaction Account Guarantee Program. Under that program, through December 31, 2009, all noninterest-bearing transaction accounts are fully guaranteed by the FDIC for the entire amount in the account. Coverage under the Transaction Account Guarantee Program is in addition to and separate from the coverage available under the FDIC's general deposit insurance rules.

For Non-Participating Institutions

[Institution Name] has chosen not to participate in the FDIC's Transaction Account Guarantee Program. Customers of [Institution Name] with noninterest-bearing transaction accounts will continue to be insured through December 31, 2009 for up to \$250,000 under the FDIC's general deposit insurance rules.

(ii) If the institution uses sweep arrangements or takes other actions that result in funds being transferred or reclassified to an account that is not guaranteed under the transaction account guarantee program, for example, an interest-bearing account, the institution must disclose those actions to the affected customers and clearly advise them, in writing, that such actions will void the FDIC's guarantee with respect to the swept, transferred, or reclassified funds.

(5) *Effective date for paragraphs (h)(2), (h)(3) and (h)(4) of this section.* Paragraphs (h)(2), (h)(3) and (h)(4) of this section are effective December 19, 2008. Prior to that date, eligible entities should provide adequate disclosures of the substance of paragraphs (h)(2), (h)(3) and (h)(4) of this section in a commercially reasonable manner.

(i) *Participation By New Eligible Entities And Continued Eligibility.* The FDIC will determine eligibility in consultation with the eligible entity's appropriate Federal banking agency.

(1) Participation by an entity that is organized after October 13, 2008 or that becomes an entity described § 370.2(a) after October 13, 2008 will be: with respect to the transaction account guarantee program, effective on the date of the entity's opt-in as described in § 370.2(g)(2), and with respect to the debt guarantee program, considered by the FDIC on a case-by-case basis in consultation with the entity's appropriate Federal banking agency.

(2) An eligible entity that is not an insured depository institution will cease to be eligible to participate in the debt guarantee program once it is no longer affiliated with a chartered and operating insured depository institution.

§ 370.6 Assessments under the Debt Guarantee Program.

(a) *Waiver of assessment for certain initial periods.* No eligible entity shall pay any assessment associated with the debt guarantee program for the period from October 14, 2008 through November 12, 2008. An eligible entity that opts out of the program on or before December 5, 2008 will not pay any assessment under the program.

(b) *Notice to the FDIC.* No guaranteed debt shall be issued by a participating entity under the FDIC's debt guarantee program unless notice of the issuance of such debt and payment of associated assessments is provided to the FDIC as required by this section and, for guaranteed debt issued after November 21, 2008, the participating entity agrees to be bound by the terms of the Master Agreement, as set forth on the FDIC's Web site.

(1) Any eligible entity that does not opt out of the debt guarantee program on or before December 5, 2008, as provided in § 370.5, and that issues any guaranteed debt during the period from October 14, 2008 through December 5, 2008 which is still outstanding on December 5, 2008, shall notify the FDIC of that issuance via the FDIC's e-business Web site *FDICconnect* on or before December 19, 2008, and the entity's Chief Financial Officer or equivalent shall certify that the issuances identified as FDIC-guaranteed debt outstanding at each point of time did not exceed the debt guarantee limit as set forth in § 370.3

(2) Each participating entity that issues guaranteed debt after December 5, 2008, shall notify the FDIC of that issuance via the FDIC's e-business Web site *FDICconnect* within the time period specified by the FDIC. The eligible entity's Chief Financial Officer or equivalent shall certify that the issuance of guaranteed debt does not exceed the debt guarantee limit as set forth in § 370.3.

(3) The FDIC will provide procedures governing notice to the FDIC and certification of guaranteed amount limits for purposes of this section.

(c) *Initiation of assessments.* Assessments, calculated in accordance with paragraph (d) of this section, will accrue, with respect to each eligible entity that does not opt out of the debt guarantee program on or before December 5, 2008:

(1) Beginning on November 13, 2008, on all senior unsecured debt, as defined in § 370.2(e)(1)(i) (except for overnight debt), issued by it on or after October 14, 2008, and on or before December 5, 2008, that is still outstanding on December 5, 2008; and

(2) Beginning on December 6, 2008, on all senior unsecured debt, as defined in § 370.2(e)(1)(ii), issued by it on or after December 6, 2008.

(d) *Amount of assessments for debt within the debt guarantee limit.* (1) *Calculation of assessment.* Except as provided in paragraph (d)(3) of this section, the amount of assessment will be determined by multiplying the amount of FDIC-guaranteed debt times the term of the debt (expressed in years) times an annualized assessment rate determined in accordance with the following table.

For debt with a maturity of	The annualized assessment rate (in basis points) is
180 days or less (excluding overnight debt)	50
181–364 days	75
365 days or greater	100

(2) If the debt matures after June 30, 2012, June 30, 2012 will be used as the maturity date.

(3) The amount of assessment for an eligible entity, other than an insured depository institution, that controls, directly or indirectly, or is otherwise affiliated with, at least one insured depository institution will be determined by multiplying the amount of FDIC-guaranteed debt times the term of the debt (expressed in years) times an annualized assessment rate determined in accordance with the rates set forth in the table in paragraph (d)(1) of this section, except that each such rate shall be increased by 10 basis points, if the combined assets of all insured de-

pository institutions affiliated with such entity constitute less than 50 percent of consolidated holding company assets. The comparison of assets for purposes of this paragraph shall be determined as of September 30, 2008, except that in the case of an entity that becomes an eligible entity after October 13, 2008, the comparison of assets shall be determined as of the date that it becomes an eligible entity.

(4) *Assessment invoicing.* Once the participating entity provides notice as required in paragraphs (b)(1) and (b)(2) of this section, the invoice for the appropriate fee will be automatically generated and posted on FDICconnect for the account associated with the participating entity, and the time limits for providing payment in paragraph (g) of this section will apply.

(5) *No assessment reduction for early retirement of guaranteed debt.* A participating entity's assessment shall not be reduced if guaranteed debt is retired prior to its scheduled maturity date.

(e) *Increased assessments for debt exceeding the debt guarantee limit.* Any participating entity that issues guaranteed debt represented as being guaranteed by the FDIC exceeding its debt guarantee limit as set forth in § 370.3(b) shall have its applicable assessment rate(s) for all outstanding guaranteed debt increased by 100 percent for purposes of the calculations in paragraph (d)(1) of this section. The FDIC may reduce the assessments under this paragraph upon a showing of good cause by the entity. In addition, any entity making such a misrepresentation may also be subject to enforcement action under 12 U.S.C. 1818, as further described in § 370.11.

(f) *Long term non-guaranteed debt fee.* Each participating entity that elects to issue long term non-guaranteed debt pursuant to § 370.3(g) must pay the FDIC a nonrefundable fee equal to 37.5 basis points times the amount of the entity's senior unsecured debt, as defined in § 370.2(e)(1)(i), that had a maturity date on or before June 30, 2009, and was outstanding as of September 30, 2008. If the entity had no such debt outstanding as of September 30, 2008, the fee will equal 37.5 basis points times the amount of the entity's debt guarantee limit established under § 370.3(b).

§ 370.7

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(1) The nonrefundable fee will be collected in six equal monthly installments.

(2) An entity electing the nonrefundable fee option will also be billed as it issues guaranteed debt under the debt guarantee program, and the amounts paid as a nonrefundable fee under this paragraph will be applied to offset these bills until the nonrefundable fee is exhausted.

(3) Thereafter, the institution will have to pay additional assessments on guaranteed debt as it issues the debt, as otherwise required by this section.

(g) *Collection of assessments—ACH Debit.* (1) Each participating entity shall take all actions necessary to allow the Corporation to debit assessments from the participating entity's designated deposit account as provided for in § 327.3(a)(2). The assessment payments of a participating entity that is not an insured depository institution shall be debited from the designated account of the affiliated insured depository institution it selected for FDICconnect access under § 370.5(g).

(2) Each participating entity shall ensure that funds in an amount at least equal to the amount of the assessment are available in the designated account for direct debit by the Corporation on the first business day after posting of the invoice on FDICconnect. A participating entity that is not an insured depository institution shall provide the necessary funds for payment of its assessments.

(3) Failure to take all necessary action or to provide funding to allow the Corporation to debit assessments shall be deemed to constitute nonpayment of the assessment, and such failure by any participating entity will be subject to the penalties for failure to timely pay assessments as provided for at § 308.132(c)(3)(v).

§ 370.7 Assessment for the Transaction Account Guarantee Program.

(a) *Waiver of assessment for certain initial periods.* No eligible entity shall pay any assessment associated with the transaction account guarantee program for the period from October 14, 2008, through November 12, 2008. An eligible entity that opts out of the program on or before December 5, 2008 will

not pay any assessment under the program.

(b) *Initiation of assessments.* Beginning on November 13, 2008 each eligible entity that does not opt out of the transaction account guarantee program on or before December 5, 2008 will be required to pay the FDIC assessments on all deposit amounts in noninterest-bearing transaction accounts calculated in accordance with paragraph (c) of this section

(c) *Amount of assessment.* Any eligible entity that does not opt out of the transaction account guarantee program shall pay quarterly an annualized 10 basis point assessment on any deposit amounts exceeding the existing deposit insurance limit of \$250,000, as reported on its quarterly Consolidated Reports of Condition and Income, Thrift Financial Report, or Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks in any noninterest-bearing transaction accounts (as defined in § 370.2(h)), including any such amounts swept from a noninterest bearing transaction account into a noninterest bearing savings deposit account as provided in § 370.4(c). This assessment shall be in addition to an institution's risk-based assessment imposed under Part 327.

(d) *Collection of assessment.* Assessments for the transaction account guarantee program shall be collected along with a participating entity's quarterly deposit insurance payment as provided in § 327.3, and subject to penalties for failure to timely pay assessments as referenced in § 308.132(c)(3)(v).

§ 370.8 Systemic risk emergency special assessment to recover loss.

To the extent that the assessments provided under § 370.6 or § 370.7 are insufficient to cover any loss or expenses arising from the temporary liquidity guarantee program, the Corporation shall impose an emergency special assessment on insured depository institutions as provided under 12 U.S.C. 1823(c)(4)(G)(ii) of the FDI Act.

§ 370.9 Recordkeeping requirements.

The FDIC will establish procedures, require reports, and require participating entities to provide and preserve